



## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 9902]

RIN 1545–BP15

### Guidance Under Sections 951A and 954 Regarding Income Subject to a High Rate of Foreign Tax; Correcting Amendment

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correcting amendments.

**SUMMARY:** This document contains corrections to Treasury Decision 9902, which was published in the **Federal Register** on Thursday, July 23, 2020.

Treasury Decision 9902 contained final regulations under the global intangible low-taxed income and subpart F income provisions of the Internal Revenue Code regarding the treatment of income that is subject to a high rate of foreign tax.

**DATES:** This correction is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Jorge M. Oben or Larry R. Pounders at (202) 317–6934 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

The final regulations (TD 9902) that are the subject of this correction are issued under section 951A of the Code.

##### Need for Correction

As published on July 23, 2020 (85 FR 44620) the final regulations (TD 9902) contain errors that need to be corrected.

##### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

## **Correction of Publication**

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

### **PART 1--INCOME TAXES**

**Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805.

\* \* \* \* \*

**Par. 2.** Section 1.951A-2 is amended by:

- a. Revising the third sentence of paragraph (c)(3)(ii)(B).
- b. Revising paragraphs (c)(7)(iii)(B)(2) and (c)(7)(viii)(A)(2)(ii).
- c. Revising the first sentence of paragraph (c)(7)(viii)(A)(4) introductory text.
- d. Revising paragraph (c)(7)(viii)(A)(4)(i).
- e. Redesignating paragraph (c)(8)(iii)(C)(2)(vii) as paragraph (c)(8)(iii)(C)(2)(vii).
- f. Removing “DE1Y” in paragraph (c)(8)(iii)(D)(6)(i) and adding in its place “FDE1Y”.
- g. Removing “CFC1X” in paragraph (c)(8)(iii)(D)(6)(iii) and adding in its place “CFC2X”.

The revisions read as follows:

### **§ 1.951A-2 Tested income and tested loss.**

\* \* \* \* \*

(c) \* \* \*

(3) \* \* \*

(ii) \* \* \*

(B) \* \* \* Therefore, for example, interest expense that is apportioned under the modified gross income method to a tentative gross tested income item of a lower-tier corporation under paragraph (c)(7)(iii)(A) of this section may be allocated and apportioned to the tested income of the upper-tier corporation or to the residual grouping, depending on whether the lower-tier corporation's tentative gross tested income item is an item of gross tested income or is excluded from gross tested income under the high-tax exclusion. \* \* \*

\* \* \* \* \*

(7) \* \* \*

(iii) \* \* \*

(B) \* \* \*

(2) In the case of payments to a tested unit that is treated as a foreign branch under paragraph (c)(7)(iii)(B)(1) of this section, applying the principles of §1.904-6(a)(2)(ii) and (iii) as if the tested unit receiving the payment were a foreign branch owner (and as if the tested unit making the payment were a foreign branch); and

\* \* \* \* \*

(viii) \* \* \*

(A) \* \* \*

(2) \* \* \*

(ii) Each United States shareholder that owns within the meaning of section 958(a) (including both domestic partnerships that are United States shareholders that own stock within the meaning of section 958(a) without regard to §1.951A-1(e)(1) and partners of a domestic partnership that are United States shareholders that are treated as owning stock within the meaning of section

958(a) by reason of §1.951A-1(e)(1)) stock of the controlled foreign corporation as of the end of the CFC's taxable year to which the election relates must file amended Federal income tax returns (or timely original federal income tax returns if a return has not yet been filed) reflecting the effect of such election (or revocation) for the U.S. shareholder inclusion year with or within which the CFC inclusion year ends as well as for any other taxable year in which the U.S. tax liability of the United States shareholder would be increased by reason of the election (or revocation) (or in the case of a partnership if any item reported by the partnership or any partnership-related item would change as a result of the election (or revocation)) within a single period no greater than six months within the 24-month period described in paragraph (c)(7)(viii)(A)(2)(i) of this section; and

\* \* \* \* \*

(4) A United States shareholder that is a partner in a partnership that is also a United States shareholder in the controlled foreign corporation must generally file an amended return, as required under paragraph (c)(7)(viii)(A)(2)(ii) of this section, and must generally pay any additional tax owed as required under paragraph (c)(7)(viii)(A)(2)(iii) of this section. \* \* \*

(i) The partnership timely files an administrative adjustment request described in paragraph (c)(7)(viii)(A)(2)(i) or (ii) of this section, as applicable; and,

\* \* \* \* \*

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